N THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 9082 of 2005

Between:

Arundhati Aided Upper Primary School Abhipuram,
Mahanandi Mandal, Kurnool District Rep. by its Correspondent
Mr.M.Simon S/o.M.Danial.

..... PETITIONER

AND

1 District Educational Officer, Kurnool, Kurnool District.
2 Deputy Education Officer Nandiyala, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus direct the 1st respondent to approve the selection made by the selection committee and same was forwarded by the 2nd respondent in Proceedings R.C.No.114 dt.25.8.2004, RC.No.115 dt.25.8.2004 of the 2nd respondent.

Counsel for the Petitioner:MR.S.GIRIMOJI RAO

Counsel for the Respondent Nos.1 and 2: GP FOR SCHOOL EDUCATION

The Court, at the stage of admission, made the following :

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the first respondent in not approving the selection made on 25.08.2004 for the aided posts of five Secondary Grade Teachers (Telugu) and one Secondary Grade Assistant Teacher (Urdu), as arbitrary and illegal.

It is stated that six posts of teaching staff fell vacant in the petitioner school and for filling up the said posts, the petitioner has already taken all the necessary steps and the competent authority has also accorded necessary permission. However, the appointment could not be made in view of the general ban on recruitment imposed by the Government under the Memo dated 20.10.2004.

The contention of the petitioner is that the general ban under Memo dated 20.10.2004 cannot be made applicable to the case on hand since the competent authority has accorded necessary permission to fill up the posts much prior to the ban imposed under the Memo dated 20.10.2004. In support of the said contention, learned counsel for the petitioner has relied upon a decision of this Court in W.P.No.22188 of 2004, wherein this Court has dealt with an identical issue. This Court, having considered the scope of Memo dated 20.10.2004, held that in the Memo dated 20.10.2004 though it is stated that no new posts of grant-in-aid would be created and the existing vacancies will also not be filled up, in the very same memo it is stated that the general ban is not applicable to the posts for which permission was specifically granted by the Government and accordingly permitted the petitioner therein to proceed with the selection process notwithstanding the ban imposed under the Memo dated 20.10.2004.

The learned counsel for the petitioner submits that the ratio laid down in the said decision squarely applies to the case on hand and therefore, the petitioner may be permitted to fill up the vacancies in question notwithstanding the ban imposed under the Government Memo dated 20.10.2004.

The learned Government Pleader for School Education appearing for the respondents does not dispute the same.

Accordingly, the writ petition is disposed of with a direction to the first respondent to consider the request of the petitioner for approval of the selection made by the selection committee, which was forwarded by the second respondent vide proceedings dated 25.08.2004, notwithstanding the ban under Government Memo

dated 20.10.2004. No costs.

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25.04.005

Note : Furnish C.C in two days.

(B/O)

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To

1 The District Educational Officer, Kurnool, Kurnool District.
2 The Deputy Education Officer Nandiyala, Kurnool District.

3 Two C.Cs., to the G.P., for School Education, High Court Buildings, Hyderabad (OUT).

4 2 CD copies.